



February 7, 2007

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## HOUSE BILL No. 1410

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DIGEST OF HB 1410 (Updated January 31, 2007 4:30 pm - DI 69)

**Citations Affected:** IC 20-26.

**Synopsis:** Criminal history checks. Requires a criminal history background check, including a national background check, for an applicant for employment with a school corporation who begins employment after June 30, 2007, and requires the background check to be completed not more than 90 days after the individual begins employment. Specifies the results of the criminal history background check may include only: (1) criminal history data with disposition information; and (2) information with respect to any arrest or criminal charge that occurred less than one year before the date the background check was initiated even if a disposition concerning the arrest or criminal charge has not been entered. Allows a school corporation to enter into an agreement with a private entity to perform criminal background checks.

**Effective:** July 1, 2007.

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### Hoy, Koch, Porter, Crouch

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January 16, 2007, read first time and referred to Committee on Education.  
January 23, 2007, reassigned to Committee on Courts and Criminal Code.  
February 6, 2007, amended, reported — Do Pass.

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HB 1410—LS 7658/DI 106+



February 7, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1410

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 20-26-5-10, AS ADDED BY P.L.1-2005,  
2       SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2007]: Sec. 10. (a) A school corporation, including a school  
4       township, shall adopt a policy concerning criminal history information  
5       for individuals who:

6           (1) apply for:

7               (A) employment with the school corporation; or

8               (B) employment with an entity with which the school  
9               corporation contracts for services;

10          (2) seek to enter into a contract to provide services to the school  
11          corporation; or

12          (3) are employed by an entity that seeks to enter into a contract to  
13          provide services to the school corporation;

14       if the individuals are likely to have direct, ongoing contact with  
15       children within the scope of the individuals' employment.

16       (b) A school corporation, including a school township, shall  
17       administer a policy adopted under this section uniformly for all

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1 individuals to whom the policy applies.

2 **(c) A policy adopted under this section must require a criminal**  
 3 **history background check, including a check of:**

4 **(1) both in state and out-of-state criminal records for the**  
 5 **previous ten (10) years based upon the employee's prior**  
 6 **residency; and**

7 **(2) sex offender registries in all fifty (50) states;**  
 8 **for each individual whose employment with the school corporation**  
 9 **begins after June 30, 2007. A background check required under**  
 10 **this subsection must be completed not later than ninety (90) days**  
 11 **after the individual's employment by the school corporation.**

12 **(d) The results of a criminal history background check, as**  
 13 **described in subsection (c), may include only:**

14 **(1) criminal history data with disposition information; and**  
 15 **(2) information with respect to any arrest or criminal charge**  
 16 **that occurred less than one (1) year before the date the**  
 17 **background check was initiated even if a disposition**  
 18 **concerning the arrest or criminal charge has not been**  
 19 **entered.**

20 **(e) Notwithstanding IC 10-13-3-39, a school corporation,**  
 21 **including a school township, may enter into an agreement with a**  
 22 **private entity to perform a criminal history background check**  
 23 **under this section.**

24 **(f) A policy adopted under this section may require any of the**  
 25 **following:**

26 **(1) The school corporation, including a school township, may**  
 27 **request limited criminal history information concerning each**  
 28 **applicant for noncertificated employment or certificated**  
 29 **employment from a local or state law enforcement agency before**  
 30 **or not later than three (3) months after the applicant's employment**  
 31 **by the school corporation.**

32 **(2) Each individual hired for noncertificated employment or**  
 33 **certificated employment may be required to provide a written**  
 34 **consent for the school corporation to request under IC 10-13-3**  
 35 **limited criminal history information or a national criminal history**  
 36 **background check concerning the individual before or not later**  
 37 **than three (3) months after the individual's employment by the**  
 38 **school corporation. The school corporation may require the**  
 39 **individual to provide a set of fingerprints and pay any fees**  
 40 **required for a national criminal history background check.**

41 **(3) Each individual hired for noncertificated employment may be**  
 42 **required at the time the individual is hired to submit a certified**

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copy of the individual's limited criminal history (as defined in IC 10-13-3-11) to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 10-13-3;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 10-13-3-7) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.

(g) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs

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1 associated with obtaining the limited criminal history. **The school**  
2 **corporation is responsible for all costs associated with obtaining a**  
3 **criminal history background check as described under subsection**  
4 **(c).**

5 ~~(d)~~ **(h)** Information obtained under this section must be used in  
6 accordance with IC 10-13-3-29 or **IC 10-13-3-39(g).**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1410, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, delete "seven (7)" and insert "**ten (10)**".

Page 2, line 12, after "(d)" insert "**The results of a criminal history background check, as described in subsection (c), may include only:**

- (1) criminal history data with disposition information; and**
- (2) information with respect to any arrest or criminal charge that occurred less than one (1) year before the date the background check was initiated even if a disposition concerning the arrest or criminal charge has not been entered.**

**(e)".**

Page 2, line 16, delete "(e)" and insert "**(f)**".

Page 3, line 33, delete "(f)" and insert "**(g)**".

Page 3, line 34, after "section" insert ",".

Page 3, line 34, delete "or a criminal history background check described".

Page 3, line 35, delete "under subsection (c),".

Page 3, delete line 36.

Page 3, line 37, delete "corporation,".

Page 3, line 37, delete "or" and insert ". **The school corporation is responsible for all costs associated with obtaining a criminal history background check as described under subsection (c).**".

Page 3, delete line 38.

Page 3, line 39, delete "(g)" and insert "**(h)**".

and when so amended that said bill do pass.

(Reference is to HB 1410 as introduced.)

HOY, Chair

Committee Vote: yeas 11, nays 0.

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